

REMARKS

Applicants herein traverse and respectfully request reconsideration of the rejection of the claims 14-23 as cited in the above referenced Office Action in view of the remarks set forth below.

I. Priority- Pursuant to 35 U.S.C. §120:

Applicants note with appreciation the Examiner's conclusions that claims 14 and 17-12 are entitled to claims priority of March 8, 1993 considering that each of SEQ ID NOs; 1 and 12 are disclosed in the priority application, e.g., 08/028031. For reasons appearing below, it is Applicants position that claims 15 and 16 are likewise entitled to the priority date of March 8, 1993.

II. The Rejection of Claim 15 and 16 Under 35 U.S.C. §103 As Obvious Over Peng-X et al. May Properly Be Withdrawn:

Applicants respectfully submit that Peng-X is not prior art as suggested by the Examiner. Specifically, the examiner acquiesces that SEQ ID NOs: 11 and 12 are entitled to the priority date March 8, 1993 based upon the support found in prior application No. 08/028,032, filed March 8, 1993. Consequently, claims 14 and 17-23, according to the Examiner, are entitled to claim priority of the '031 filing date, e.g., March 8, 1993. However, the Examiner maintains that dependent claims 15 and 16, each of which depend from claim 14 are not entitled to claims said priority. Applicants respectfully disagree.

Claims 15 and 16 are dependent claims, each depending from claim 14. Consequently, each of claims 15 and 126 should be allowed for the same reasons that claim 14 is allowable over the prior art. Claim 15, depends from claim 14 and further requires that the transfected cell line of claim 14 is derived from a rat pituitary tumor tissue, while claim 16 further requires that the cell line is a specified cell line. Applicants respectfully submit that each of claims 15 and 16 is allowable over the prior art for the same reasons that independent claims 14 is allowable in addition to the additional recitations contained in each of the dependent claims. As a consequence, applicants entitlement to the priority date of November 30, 1992 as noted in the claim of priority is sufficient to remove Peng-X et al. as a prior art reference thereby rendering moot the grounds for the above rejection. In light of the above recitation, it is respectfully proposed that the grounds for the rejections under section 103 be removed.

For all the above reasons, Applicant respectfully submit that the claims are allowable over the cited references. In view of the foregoing, the application is now believed to be in proper form for allowance and notice to that effect is earnestly solicited.

III. The Rejection of Claims 14 and 17-23 under the judicially created doctrine of obviousness type double patenting May Properly Be Withdrawn

The enclosed duly executed Terminal disclaimer is sufficient to render moot the grounds for the above rejection. Consequently, Applicants propose that the rejection be withdrawn.

If the Examiner believes that a telephone conference would be of value, he is requested to call the undersigned counsel at the number listed below.

Any additional fees required in connection with this submission may be taken from Merck Deposit Account No. 13-2755.

Respectfully submitted,

By 

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